

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

THOMAS RIOS,

Plaintiff

v.

AMICAR, et al.,

Defendants

Case No. 2:24-cv-01175-APG-BNW

**ORDER**

**I. DISCUSSION**

Plaintiff, who is an inmate in the custody of the Nevada Department of Corrections (“NDOC”), initiated this case with a civil rights complaint under 42 U.S.C. § 1983. (ECF No. 1-1). Plaintiff subsequently filed a complaint cover letter with the same Defendants, but with Defendant “AW Kay” further identified as Williams Kuloloia. (ECF No. 8). Plaintiff then filed a motion for leave to file excess pages and a document identified as a first amended complaint. (ECF Nos. 11, 12). This first amended complaint appears to include only a single claim against Nurse Flores, who is not listed as a Defendant in Plaintiff’s other complaints, and 68 pages of exhibits. (ECF No. 12). Finally, Plaintiff has filed a document that he identifies as his second amended complaint. (ECF No. 16). This second amended complaint mirrors Plaintiff’s initial complaint, with some additional details added. It does not include Plaintiff’s claim against Nurse Flores.

The Court will not piecemeal Plaintiff’s complaint together from multiple filings. Plaintiff’s operative complaint must contain all claims, defendants, and factual allegations that Plaintiff wishes to pursue in this lawsuit. Accordingly, the Court gives Plaintiff leave to file a single, complete, third amended complaint on or before January 27, 2025. If Plaintiff does not file a third amended complaint, the Court will screen Plaintiff’s second amended complaint, which is filed at ECF No. 16, and will not consider any allegations in Plaintiff’s other complaints. The Court notes that in screening a

1 complaint, the Court takes all of Plaintiff's factual allegations as true. However, the  
2 Court does not consider any attached exhibits. Plaintiff's motion for leave to file excess  
3 pages (ECF No. 11) is denied because Plaintiff does not need to attach any exhibits or  
4 support for his complaint at this time. Plaintiff only needs to allege the facts that support  
5 his claims. In each count of any third amended complaint, Plaintiff should clearly state  
6 how each Defendant violated his rights. If Plaintiff needs additional room to state the  
7 facts, he may add additional pages to his third amended complaint. But he does not  
8 need to, and should not, attach any exhibits to the third amended complaint.

9 If Plaintiff chooses to file a third amended complaint, he is advised that a third  
10 amended complaint supersedes (replaces) the original complaint, and previously filed  
11 amended complaints, and, thus, the third amended complaint must be complete in itself.  
12 *See Hal Roach Studios, Inc. v. Richard Feiner & Co., Inc.*, 896 F.2d 1542, 1546 (9th Cir.  
13 1989) (holding that "[t]he fact that a party was named in the original complaint is  
14 irrelevant; an amended pleading supersedes the original"); *see also Lacey v. Maricopa*  
15 *Cnty.*, 693 F.3d 896, 928 (9th Cir. 2012) (holding that for claims dismissed with  
16 prejudice, a plaintiff is not required to reallege such claims in a subsequent amended  
17 complaint to preserve them for appeal).

18 Plaintiff's third amended complaint must contain all claims, defendants, and  
19 factual allegations that Plaintiff wishes to pursue in this lawsuit. Moreover, Plaintiff must  
20 file the third amended complaint on this Court's approved prisoner civil rights form, and  
21 it must be entitled "Third Amended Complaint."

## 22 II. CONCLUSION

23 For the foregoing reasons, IT IS ORDERED that Plaintiff is granted leave to file a  
24 single, complete, third amended complaint. If Plaintiff chooses to file a third amended  
25 complaint, Plaintiff will file the third amended complaint on or before **January 27, 2025**.

26 IT IS FURTHER ORDERED that the Clerk of the Court will send to Plaintiff the  
27 approved form for filing a § 1983 complaint, instructions for the same, and a copy of his  
28 various complaints (ECF Nos. 1-1, 8, 12, 16). If Plaintiff chooses to file a third amended

1 complaint, he must use the approved form and he will write the words "Third Amended"  
2 above the words "Civil Rights Complaint" in the caption.

3 IT IS FURTHER ORDERED that, if Plaintiff does not timely file a third amended  
4 complaint, the Court will screen the second complaint (ECF No. 16) and will not  
5 consider any allegations in Plaintiff's other filings.

6 IT IS FURHTER ORDERED that Plaintiff's motion for leave to file excess pages  
7 (ECF No. 11) is DENIED without prejudice.

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9 DATED THIS 30 day of December 2024.

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12 UNITED STATES MAGISTRATE JUDGE  
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